

In the Matter of License No. 174771
Issued to: WILLIAM C. LANIER

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

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WILLIAM C. LANIER

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations Sec. 137.11-1.

By order dated 22 August 1956, an Examiner of the United States Cost Guard at New Orleans, Louisiana, suspended License No. 17471 issued to William C. Lanier upon finding him guilty of misconduct based upon ninety-four specifications. The specifications allege in substance that while serving as Master on board the American MV EBB TIDE under authority of license above described, between 29 December 1955 and 30 March 1956, Appellant allowed the EBBB TIDE to be operated in violation of the vessel's Certificate of Inspection by operating in excess of 8 hours during 24-hour periods (11 specifications); by operating without a licensed engineer (50 specifications); and by operating without a first class pilot while in inland waters (32 specifications). The other specifications alleges that, while serving as above, Appellant failed to submit form CG-735T (Report of Ship Personnel not Shipped or Discharged before a Shipping Commissioner) from 29 December 1955 to 30 March 1956 as required by Coast Guard regulations.

At the hearing, Appellant was given a full explanation of the nature of the proceedings, the rights to which he was entitled and the possible results of the hearing. Appellant was represented by counsel of his own choice and he entered a plea of "guilty" to the charge and each of the ninety-four specification.

Thereupon the Investigating Officer made his opening statement and counsel for Appellant made a statement pointing out certain extenuating circumstances. It was stipulated that Appellant did not have the authority to reject the company hired members of his crew and that Appellant received company orders as to how, when and where to go with the vessel.

At the conclusion of the hearing, the Examiner concluded that the charge and ninety-four specifications had been proved by plea. He then entered the order suspending Appellant's License No. 174771

for a period of twelve months.

Subsequently, the hearing was reopened by the Examiner to receive evidence in mitigation. Three witnesses in addition to Appellant testified in his behalf. This testimony established that during much of the time when the vessel was in operation, it was moored to one of the offshore oil rigs rather than underway; there was a competent, unlicensed engineer on board; and Appellant was qualified to act as a pilot on the Atchafalaya River where the vessel operated because he had taught piloting, as related to various inland waters bordering the Gulf, in two navigation schools in addition to having actual experience navigating on the Atchafalaya River prior to serving on the EBB TIDE.

As a result of this testimony, the Examiner modified the order to provide for the issuance of a Second Mate's license to Appellant ninety days after the effective date of the original order. This later order, dated 10 September 1956, specifies that the first order against Appellant's Master's license shall remain in effect.

Based upon my examination of the record submitted, I hereby make the following

FINDINGS OF FACT

On the dates specified below between 29 December 1955 and 30 March 1956, Appellant was serving as Master on board the American MV EBB TIDE and acting under authority of his License No. 174771 while the vessel was operating on the Atchafalaya River below Morgan City and on the Gulf of Mexico carrying freight to two oil rigs which were two to three miles offshore. Appellant's license as Master did not contain an indorsement for pilotage on the Atchafalaya River.

The EBB TIDE is a vessel of 148 gross tons. Her Certificate of Inspection required that, when operating on inland waters, the vessel should be manned by a first class pilot, an able seaman and a chief engineer. The certificate also limited the operation of the vessel to eight hours in any twenty-four hours.

On the following dates, Appellant operated the vessel in excess of eight hours: 29 through 31 December 1955; 1 through 8 January 1956.

On the following dates, Appellant operated the EBB TIDE without a licensed engineer: 29 through 31 December 1955; 1 through 9 and 23 through 31 January 1956; 1 through 6 and 24 through 29 February 1956; 1 through 6 and 20 through 30 March 1956.

On the following dates, Appellant operated his vessel without

a first class pilot: 29 December 1955; 1 through 4 and 23 through 31 January 1956; 1 through 4, 24 and 29 February 1956; 1, 4, 5, 20 through 24, 26, 27, 28 and 30 March 1956.

Appellant failed to submit the required form CG-735T (Report of Ship Personnel Not Shipped or Discharged Before a Shipping Commissioner) for the EBB TIDE from 29 December 1955 to 30 March 1956.

Appellant has had no prior record during approximately eighteen years of service on merchant vessels of the United States.

BASIS OF APPEAL

This appeal has been taken from the order imposed by the Examiner. Appellant contends that the order is excessive under the circumstances since such violations are common practice in the Gulf area but this is the only case in which the Coast Guard has taken action to enforce these regulations.

APPEARANCES: George Smill, Esquire, of New Orleans, Louisiana,
of Counsel.

OPINION

After reopening the hearing and receiving testimony, the Examiner considered Appellant's experience and knowledge of these waters as a mitigating circumstance since such evidence indicates that Appellant did not disregard the safety of the vessel and those on board with respect to the navigational aspects of the case. Accordingly, the Examiner modified the original order to provide for the issuance of a Second Mate's license to Appellant after ninety days.

Despite the circumstances, it is clear that Appellant knowingly permitted the vessel on which he was Master to be operated in direct violation of the provisions of the EBB TIDE's Certificate of Inspection and the statutes on which the requirements in the certificate were based. Title 46 U.S.C. 222 provides that no vessel shall be navigated unless she had on board the complement called for in her Certificate of Inspection. Based on this statute, the certificate specified that a first class pilot and chief engineer should be serving on the vessel when operating on inland waters. The limitation of eight hours operation in any twenty-four hours is based on 46 U.S.C. 673. The failure to submit for CG-735T was a violation of the regulation (46 CFR 14.05-20) promulgated under the authority of 46 U.S.C. 643(1).

Regardless of any lack of action by the Coast Guard in other

similar cases, there is no doubt that Appellant was guilty of navigating his vessel in violation of the provisions of her Certificate of Inspection. Such acts of misconduct justified the order of suspension imposed by the Examiner. Hence, this order is not considered to be excessive as Appellant contends on appeal.

ORDER

The orders of the Examiner dated at New Orleans, Louisiana, on 22 August 1956 and 10 September 1956 are AFFIRMED.

A. C. Richmond
Vice Admiral, United States Coast Guard
Commandant

Dated at Washington, D. C., this 14th day of June, 1957.